

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KERRY X MARSHALL,)
also known as KERRY X [MARSHALL],)
Plaintiff,)

vs.)

Civil Action No. 14-1210
Magistrate Judge Maureen P. Kelly

TOM CORBETT; JOHN WETZEL;)
JOHN DOE #1; ANDREA)
PRIORI-MEINTEL; ULLI KLEMM;)
CRAIG COOPER; MARGARET)
GORDON; MARCIA NOLES; RANDY)
MCELRAVY; MICHAEL MICHLIN;)
JEFFREY DITTY; LYDIA HALE;)
ADEEB RASHEED; JODY SMITH;)
DORINA VARNER; BRIAN COLEMAN;)
JOHN DOES #2-7; DEBRA)
HAWKINBERRY,)
Defendants.)

ORDER

Kerry X, also known as Kerry Marshall, (“Plaintiff”) is serving a life sentence for murder. Plaintiff has submitted a Motion to Proceed In Forma Pauperis (the “IFP Motion”), ECF. No. 1, along with a civil rights Complaint on September 8, 2014. However, the IFP Motion was deficient. The IFP Motion lacked the portion of the IFP Motion that was to be completed by the Records Officer of the Prison. In addition, it lacked the certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint. Plaintiff did include a letter addressed to the Clerk of Courts in which Plaintiff asserted that “in accord with Local Civil Rule of Procedure 9.2(a)(5), I certify that I have attempted without success to have the certificate of trust fund account statement completed by the Record Officer but was not able to do so because prison

guards have been preventing this by destroying my Inmate Request to Staff Forms submitted. Therefore I am sending you an ‘institutional equivalent’ of my trust fund account statement as set forth in 28 U.S.C. § 1915(a)(2).” ECF No. 1 at 3 (underlining removed).

We note that there is no Local Civil Rule of Procedure 9.2(a)(5). We further note that to the extent Plaintiff asserts the one page uncertified copy of his trust account statement for the month of July to August, ECF No. 1 at 2, constitutes the “institutional equivalent” within the contemplation of 1915(a)(2), we reject the assertion.

It is hereby **ORDERED** that the Inmate Accounts Officer at SCI-Rockview provide this Court a certified copy of Kerry Marshall’s inmate trust account statement for the six months preceding September 2014, given Plaintiff’s expressed desire that he wants to proceed IFP but that guards prevented him from getting the request for the 6 month statement to the Inmate Accounting Officer. It is also **ORDERED** the Inmate Accounts Officer to complete the portion of the IFP Motion required to be completed by the Records Officer of the Prison. A copy of this Order is being sent to the Inmate Accounting Department at SCI-Rockview together with a copy of the IFP Motion that was filed by Plaintiff (a matter of public record) and the portion of the IFP Motion to be filled out by the Records Officer of the Prison in order for the Inmate Accounting Department to promptly fill out the form and return it to the Court together with a certified copy of Kerry Marshall’s inmate trust account statement for the six months preceding September 2014.

Plaintiff is **ORDERED** to complete the “Authorization To be Completed by Prisoner Who Seeks Leave to Proceed In Forma Pauperis” a copy of which is being mailed to Plaintiff with this order, and return it to the Court no later than October 3, 2014. Failure to do so may result in the case being dismissed for failure to prosecute.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties subject to this Order are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Any appeal is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219. Failure to file a timely appeal will constitute a waiver of any appellate rights.

BY THE COURT:

/s/Maureen P. Kelly

MAUREEN P. KELLY

UNITED STATES MAGISTRATE JUDGE

Date: September 24, 2014

cc: Kerry X. Marshall
BE-7826
SCI Rockview
Box A
Bellefonte, PA 16823

Inmate Accounting Department
SCI Rockview
Box A
Bellefonte, PA 16823-0820